

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

FERNANDO GASTELUM,
Plaintiff.

V.

CENTRAL VALLEY HOSPITALITY LLC,
Defendant.

Case No. 1:21-cv-01079-NONE-SAB

ORDER VACATING FINDINGS AND RECOMMENDATIONS RECOMMENDING DENYING PLAINTIFF'S APPLICATION TO PROCEED *IN FORMA PAUPERIS*; DENYING PLAINTIFF'S APPLICATION TO PROCEED *IN FORMA PAUPERIS* AS MOOT; AND DIRECTING CLERK OF THE COURT TO ISSUE A SUMMONS AND NEW CASE DOCUMENTS

(ECF Nos. 5, 6)

Fernando Gastelum (“Plaintiff”), proceeding *pro se*, filed a complaint in this action on July 12, 2021, bringing causes of action for violation of the Americans with Disabilities Act. (ECF No. 1.)¹ Plaintiff did not pay the filing fee in this action and instead filed an application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. On July 14, 2021, an order issued finding that Plaintiff’s application to proceed *in forma pauperis* did not demonstrate entitlement to proceed in this action without prepayment of fees. (ECF No. 5.) Plaintiff was ordered to either file a long form application to proceed without prepayment of fees or pay the filing fee within twenty days. (Id.) On July 26, 2021, Plaintiff filed a long form application. (ECF No. 5.)

¹ The docket reflects this action was brought under 42 U.S.C. § 1983, and the Court will direct the Clerk of the Court to amend the docket to reflect that this action proceeds under the Americans with Disabilities Act.

1 On August 6, 2021, the Court issued findings and recommendations recommending that
2 Plaintiff's application to proceed *in forma pauperis* be denied, and that he be required to pay the
3 filing fee in this action. (ECF No. 6.) On August 17, 2021, Plaintiff paid the filing fee for this
4 action. The Court has reviewed Plaintiff's complaint and finds that it contains sufficient factual
5 allegations for a summons to issue.

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. Plaintiff's application to proceed without prepayment of fees, filed July 26, 2021
8 (ECF No. 5), is DENIED as moot;
- 9 2. The findings and recommendations filed August 6, 2021 (ECF No. 6), is
10 VACATED;
- 11 3. The Clerk of the Court is DIRECTED to amend the docket to reflect that the
12 action was brought pursuant to the Americans with Disabilities Act; and
- 13 4. The Clerk of the Court is DIRECTED to issue civil new case documents and a
14 summons in this action.

15 IT IS SO ORDERED.

16 Dated: August 18, 2021



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18 UNITED STATES MAGISTRATE JUDGE

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